

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the General Government Appropriations Committee

BILL: PCS/SB 1758

INTRODUCER: General Government Appropriations Committee and Senator Baker

SUBJECT: Surplus Lines or Premium Tax

DATE: March 30, 2009 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------|----------------|-----------|--------------------|
| 1. | Frederick | DeLoach | GA | Pre-meeting |
| 2. | | | GO | |
| 3. | | | WPSC | |
| 4. | | | RC | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

This bill amends the distribution of revenues from taxes collected on premiums for surplus lines insurance and insurance provided by risk retention groups, pursuant to section 627.944(3), Florida Statutes. The bill provides that all tax revenues be distributed to the General Revenue Fund. Currently, 15.74 percent of the tax proceeds is distributed to the Insurance Regulatory Trust Fund within the department and 84.26 percent is distributed to the General Revenue Fund. The bill redirects \$29.6 million from the Insurance Regulatory Trust Fund to the General Revenue Fund.

This bill substantially amends the following sections of the Florida Statutes: 624.523(1), 626.932(5), and 626.938(7), Florida Statutes.

II. Present Situation:

Surplus lines insurance refers to a high risk category of insurance for which there is no market available through standard insurance carriers. The insurance coverage is provided by a company that is not licensed in Florida, but is approved by the Office of Insurance Regulation (OIR) to transact insurance in the state as an “eligible” insurer. The purpose of the Surplus Lines Law (ss. 626.913 through 626.937, F.S.) is to provide consumers access to insurers when certain insurance coverage cannot be obtained from Florida-authorized insurers. In order to place a business with a surplus lines carrier, the agent must make a “diligent effort” to place the policy with a Florida-authorized insurer, which is demonstrated by having three written rejections of coverage from authorized insurers writing that type of insurance. Rates charged by a surplus lines insurer may not be lower than those in use and offered by the majority of authorized insurers writing similar coverage on similar risks in Florida. Insurance coverages available

through a surplus lines insurer include homeowners' insurance in hurricane-prone areas, commercial aircraft, and some sea vessels. Florida law provides stringent qualifications for those agents who insure surplus lines, who must be registered with the department. Risk retention groups purchase liability insurance on a group basis in order to assume and spread the liability exposure of its members.

Currently, there is a five percent tax on premiums for surplus lines insurance and insurance provided by risk retention groups. The distribution percentages set forth for surplus lines insurers are also applied to insurance provided by risk retention groups. Fifteen and seventy-four-hundredths percent of the tax proceeds is distributed to the Insurance Regulatory Trust Fund within the department and 84.26 percent is distributed to the General Revenue Fund. The Insurance Regulatory Trust Fund provides partial funding to the department and the OIR for its administrative and regulatory functions.

III. Effect of Proposed Changes:

This bill amends the distribution of revenues from taxes collected on premiums for surplus lines insurance and insurance provided by risk retention groups, pursuant to section 627.944(3), Florida Statutes. The bill provides that all tax revenues be distributed to the General Revenue Fund. The revised distribution of tax revenues to the General Revenue Fund is estimated to provide an additional \$29.6 million to the fund on a recurring basis, beginning Fiscal Year 2009-2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Beginning Fiscal Year 2009-2010, the amended distribution for surplus lines insurance and insurance provided by risk retention groups will decrease tax revenues distributed to the Insurance Regulatory Trust Fund within the Department of Financial Services by \$29.6 million and correspondingly increase tax revenues distributed to the General Revenue Fund by \$29.6 million. These tax revenues are expected to remain relatively constant, thereby providing increased revenue to the General Revenue Fund on a recurring basis.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.